

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company (U 39 E) for a Certificate of Public Convenience and Necessity Authorizing the Construction of the Jefferson-Martin 230 kV Transmission Project.

Application 02-09-043
(Filed September 30, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
RECEIVING CERTAIN EVIDENCE, DENYING MOTIONS FOR ADDITIONAL
EVIDENCE, AND SUBMITTING THE RECORD**

1. Summary

On May 19, 2004, I issued a ruling setting aside submission of Application (A.) 02-09-043. I deny the motions of Californians for Renewable Energy (CARE) and Women's Energy Matters (WEM) to allow them to submit additional evidence. I grant the petition of the California Independent System Operator (ISO) and receive San Francisco Peninsula Area load forecast data attached to its petition. I receive into evidence the information that Pacific Gas and Electric Company (PG&E) filed in response to my May 19, 2004 ruling, and submit the record in A.02-09-043.

2. CARE Motion to Reopen the Record

On March 3, 2004, the day before opening briefs were due in this proceeding, CARE submitted a motion¹ requesting that the record be reopened regarding the impacts of trenching on biological resources in serpentine grasslands. In its motion, CARE describes a site visit undertaken on February 28, 2004. It requested an opportunity to present additional evidence based on that site visit or, in the alternative, that it be given additional time to prepare its initial brief. 280 Corridor Concerned Citizens filed an opposition to CARE's motion, and CARE filed a reply.

The basis for CARE's request to extend the briefing period appeared to be so that it could include information regarding the site visit in its brief. I notified the parties by e-mail that I would not modify the briefing schedule and cautioned that briefs were to be based on the submitted record.

CARE has not explained satisfactorily why the proposed additional evidence was not previously adduced, as required by Rule 84. Nor does it establish that material changes of fact or law have occurred since the conclusion of the hearing. Consideration of this additional information would require additional hearings and commensurate delay in the proceeding. Because of the public interest in resolving this matter in a timely fashion, I deny CARE's request to introduce new evidence.

¹ CARE's motion was not filed properly, but the deficiencies were subsequently cured and the motion accepted for filing.

3. WEM Motion to Reopen the Record

On March 3, 2004, WEM submitted a motion to reopen the record² on the basis that the Commission should consider information regarding (1) a proposed merchant transmission line across San Francisco Bay, (2) ISO power flow studies which WEM asserts demonstrate that the Jefferson-Martin project may reduce load serving capability in the San Francisco area, and (3) the possibility of imminent global climate collapse due to failure of the “Ocean Conveyor” which drives ocean currents. PG&E and the ISO filed responses in opposition to WEM’s motion.

WEM describes a new transmission cable that has been proposed between the Pittsburg substation in the East Bay and the Potrero substation in San Francisco. PG&E and the ISO respond that this proposal is only a concept that has been presented to the ISO Stakeholder Group and that it is too speculative to be considered as an alternative to the Jefferson-Martin project.

As its second basis for reopening the record, WEM states that it recently learned that the Jefferson-Martin line could reduce the load serving capability in the San Francisco area by as much as 370 megawatts. It references a “Draft Consensus Statement” produced by a stakeholder group in San Francisco which addresses the load serving capability in the San Francisco area under various scenarios. PG&E and the ISO respond that the analysis in that draft document is redundant of ISO power flow studies already in the record in this proceeding and that WEM could have made its new arguments regarding these studies while the record was still open.

² WEM’s motion was not filed properly, but the deficiencies were subsequently cured and the motion accepted for filing.

Finally, WEM cites three articles which it reports describe “the gut-wrenching possibility of imminent global climate collapse,” and argues that the proposed Jefferson-Martin project has not been configured in a way that would allow it to prioritize wind or other renewable power and that the Commission should use this opportunity to build an energy system based on renewables and efficiency. PG&E responds that WEM could have made these arguments while the record was still open. The ISO argues that the materials referenced by WEM are beyond the scope of the instant proceeding and therefore are not relevant.

I find no basis for allowing additional evidence in response to WEM’s motion. A possible transBay transmission line is too speculative at this time to be relevant for purposes of the transmission planning decision currently before the Commission. The ISO power flow studies which underlie the “Draft Consensus Statement” referenced by WEM are already in the record and the parties have addressed at length the manner in which these studies should be interpreted. Finally, concerns about global climate conditions are not new and WEM has provided no explanation why it could not have introduced evidence regarding possible reconfigurations of the Jefferson-Martin project to accommodate renewables during the evidentiary hearings.

4. ISO Petition to Reopen the Proceeding

The ISO’s petition, filed on March 17, 2004, seeks to submit load forecast information for the San Francisco Peninsula Area as cited in its opening brief. No party filed a response to the ISO’s petition.

The ISO explains that in its opening brief it cited a load forecast for the San Francisco Peninsula Area for the year 2009 but erroneously attributed it to Exhibit 163, PG&E’s 2003 Electric Transmission Grid Expansion Plan. While the Expansion Plan used the load forecast, the ISO discovered after filing its opening

brief that the load forecast data was not included in Exhibit 163. The ISO believes that its petition is necessary to remedy any perception that it attempted to mislead the Commission.

I agree that the San Francisco Peninsula load forecasts attached to the ISO's petition are needed in order for the Commission to have a full, complete, and accurate record as it considers need for the Jefferson-Martin project. As the ISO points out, the record contains testimony (1) demonstrating that ISO used PG&E's March 2003 "low" load forecast methodology, (2) explaining that the difference in reported load forecast projections between the ISO and PG&E results solely from the ISO's evaluation of a geographic area larger than PG&E's "Project Area," and (3) reporting specific results for years 2006 and 2010 using PG&E's 2003 "low" load forecast methodology as applied to the San Francisco Peninsula Area. Parties had the opportunity during the evidentiary hearings to examine PG&E's load forecast and the ISO's derivation of its own results, and no party objected to the ISO's petition. As a result, I find that no party would suffer prejudice by the granting of the ISO's petition.

5. Information Regarding Route Along the BART Right of Way

On May 19, 2004, I issued a ruling setting aside submission of A.02-09-043 and required that PG&E file a document containing certain requested information regarding buildings along and planned construction of PG&E's Proposed Project along the Bay Area Rapid Transit (BART) right of way. That information is needed in order for the Commission to have a full, complete, and accurate record in this proceeding. PG&E filed the requested information on May 25, 2004. I allowed parties to file objections to the receipt of this information no later than June 1, 2004. No objections were filed.

IT IS RULED that:

1. The motion of Californians for Renewable Energy, Inc. to reopen the record in Application (A.) 02-09-043 is denied.
2. The motion of Women's Energy Matters to reopen the record in A.02-09-043 is denied.
3. The petition of the California Independent System Operator (ISO) for the receipt of additional evidence in A.02-09-043 is granted.
4. Attachment 1 to the ISO's petition is marked as Exhibit 171 and is received into evidence.
5. Pacific Gas & Electric Company's response to my May 19, 2004 ruling is marked as Exhibit 172 and is received into evidence.

6. With the receipt of Exhibit 171 and Exhibit 172, the record in A.02-09-043 is submitted.

Dated June 4, 2004, at San Francisco, California.

/s/ CHARLOTTE F. TERKEURST

Charlotte F. TerKeurst
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Receiving Certain Evidence, Denying Motions for Additional Evidence, and Submitting the Record on all parties of record in this proceeding or their attorneys of record.

Dated June 4, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

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